

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

250

CRWP-3355-2022
Date of decision: 17.05.2022

POOJA

... Petitioner

Versus

**STATE OF PUNJAB THROUGH HOME SECRETARY AND
OTHERS**

... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: Mr. Paramveer Singh, Advocate
for the petitioner.

Mr. Karanbir Singh, AAG, Punjab.

Mr. Ekjot Sandhu, Advocate
for respondent No.4.

VINOD S. BHARDWAJ. J.(Oral)

The instant petition has been filed under Article 226/227 of the Constitution of India for issuance of a writ in the nature of Habeas Corpus for appointment of Warrant Officer to visit the site and to set at liberty the detenues mentioned in Paragraph No.4, if found in illegal custody.

2. A perusal of the petition shows that the case set up by the petitioner is to the effect that the petitioner as well as the alleged detenues

mentioned in Paragraph No.4 of the petition had been contracted by the Brick Kiln owner and had been engaged for manufacturing of Kacha Bricks at the rate of Rs. 780/- per thousand bricks. It is contended that the petitioner as well as other labourers were assured that they shall not have any problem in relation to the payment and that the petitioner along with other labourers reached at the Brick Kiln in the month of October, 2021 with 10 sanchas.

3. The averment in the petition is also to the effect that the petitioner as well as the other detenues were not permitted to move anywhere from the Brick Kiln and that musclemen had been hired to keep watch on the detenues and their activities. It is also contended that the dues payable to the petitioner were not paid and that the same was overdue for a period of one month. It is contended that the respondent No.4 to 6 have violated the mandatory provision of the Bonded Labourer System Abolition Act of 1976 and that the same private respondents are liable to be prosecuted under the said provisions. The petitioner who is wife of Meghpal, aged 32 years claims to have made her escape and engaged an Advocate for the purpose of filing of petition wherein it is stated that they had manufactured 8,00,000 of kacha bricks and that despite repeated demand of payment from respondent No.4, they refused to make the payment and instead threatened the labourers. Apart therefrom certain allegations with respect to the violation of provisions of the Factory Act, 1948 and Bonded Labourer System Abolition Act of 1976 and the Inter State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 are also alleged.

4. Notwithstanding the gross failure on the part of the petitioner

to establish as to what manner and forum the aforesaid statutory provisions had been violated and as to why the petitioner should not take recourse of the aforesaid statutory provisions by moving an appropriate application under the relevant Industrial law, the allegations of illegal detention have been leveled. Hence, the Deputy Commissioner, Amritsar was directed to furnish a report for the verification of the said fact.

5. In compliance of the said order passed by the Court on 19.04.2022, the compliance report by way of affidavit of Harpreet Singh Sudan, District Magistrate-cum-Deputy Commissioner, Amritsar along with true typed version of report of Naib Tehsildar-cum-Executive Magistrate, Baba Bakala Sahib and Bonded Labour Vigilance Committee (Annexure R-1) was filed in this Court. Notice in such areas that required clarification, the Deputy Commissioner, Amritsar was directed to remain present in the Court and explain the same vide order dated 06.05.2022. In compliance of the said order, Sh. Harpreet Singh Sudan, District Magistrate-cum-Deputy Commissioner, Amritsar is present today in Court. It has been apprised by the Deputy Commissioner that he had re-examined the enquiry report sent by the Committee constituted by the Sub Divisional Magistrate, Baba Bakala Sahib and examined the same from the Standard Operating Procedure issued by the Government of India vide E.No.S-110123/01/2015-BL(Pt.) dated 17.08.2017 and the subsequent guidelines issued by the NHRC file No. R-12/1/2021-PRPP(RU-4) dated 31.05.2021 in case of rescue of bonded labour cases. A committee was thereafter reconstituted to carry out the verification of the report submitted by the erstwhile Vigilance Committee comprising of the Sub Divisional Judicial Magistrate, Baba Bakala Sahib; Deputy Superintendent of Police, Baba

Bakala Sahib; Assistant Labour Commissioner, Amritsar; District Child Protection Officer, Amritsar and Senior Medical Officer, Baba Bakala Sahib. He submits that pursuant to the constitution of the said Committee vide memo dated 11.05.2022, the Committee went at the spot and had verified the allegations as well as averments contained in the petition and has submitted a report dated 12.05.2022 after conducting spot inspection on 11.05.2022. It is apprised that the petitioner as well as the other alleged detainees mentioned in Paragraph No.4 of the petition were not present at the spot. It is also pointed out that all the said persons had left the Brick Kiln premises on the night of 18.04.2022 along with their families and belongings and that no labourer was detained at the Brick Kiln premises as bonded labourer. It was also found that the necessary wages payable to the labourers had been released.

6. A perusal of the report shows that an inquiry into the allegations was conducted by the Office of the Deputy Commissioner through a team so constituted and that the Labour Inspector also had a telephonic conversation with the petitioner herself and it was stated by her that she has taken up assignment at another Brick Kiln of a person namely Lali at Jalandhar.

7. Certain essential facts as submitted before the Court by the Team so constituted as mentioned in the report, are extracted as under:-

“1. At the spot inspection, it was found that both the kacha brick working and the chimney of the kiln were not in working condition.

2. As per statements of the Nikasi labour present at the kiln, the petitioners mentioned in writ petition had come to work at the said kiln for a very short period of time. They had worked from 25.03.2022 to about 18.04.2022, and had left the

kiln premises by their own on the night of 18.04.2022. There is no CCTV camera installed at the kiln premises, which can confirm these facts. As per the statements of the villagers who were present on the spot, No fact has come into the notice that petitioner and other persons mentioned in the writ have been thrown out of the kiln forcefully.

3. *During spot visit, Labour Inspector, Sh. Jaspal Kumar had made a call on 11.05.2022 at 4:33 p.m. on the mobile No. 7300741049 mentioned in the petition and the person attended the call stated that his name as Saminder and he said that presently he is at Punjab & Haryana High Court at Chandigarh and the petitioner Pooja is working at the brick kiln of a person namely Lali at Jalandhar.*

4. *During spot inspection, no record was available with the kiln owner, the kiln owner requested some time to produce the record, So, it is liable to direct the Labour department to check the record of said kiln and sent a report to the Deputy Commissioner Amritsar at the earliest.*

5. *The place of raw bricks material has also been inspected, this place is at a distance of about ½ Km from the kiln, it is an open area and had no boundary wall or fencing.*

6. *It is apparent that the arrangements of accommodation are there for labourer and water & electricity arrangements have been made available by the kiln owner. As per the statements of the labourer present at kiln, no labour person has been harassed by the kiln owner. During spot visit Mr. Abhay, labour Jamadar was not present there.*

7. *On asking S.M.O. Baba Bakala Sahib about the OPD slip attached with petition, SMO Baba Bakala Sahib informed the OPD slip is of Civil Hospital, Baba Bakala Sahib and it is pertinent from OPD slip that patient has stated about pain in his/her heel, but he/she was not in much pain.”*

8. The report so submitted by the Deputy Commissioner is taken on record., It is apparent from perusal of the same that the petitioner and

alleged detenues mentioned in the Paragraph No.4 of the petition are not detained as bonded labourers and had already left the Brick Kiln of their own free will. The dispute, if any, pertaining to the alleged non-compliance of the provisions of Industrial law is not in the scope of the instant petition. It is invoked only for the purpose of securing life and liberty of the petitioner and alleged detenues and to seek their release if they are found to be illegally confined. Since it is evident that they have already left the premises and they are not in illegal confinement, no further orders are required to be called for in the present petition.

The petition is, thus, accordingly dismissed.

MAY 17, 2022
Vishal Sharma

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No`